

AMENDED IN ASSEMBLY APRIL 25, 2016

AMENDED IN ASSEMBLY APRIL 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1937

Introduced by Assembly ~~Member Gomez~~ Members Gomez and Williams

(Coauthor: Senator Pavley)

February 12, 2016

An act to amend Sections 399.13 and 454.5 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 1937, as amended, Gomez. Electricity: procurement.

The Public Utilities Act requires the Public Utilities Commission to review and accept, modify, or reject a procurement plan for each electrical corporation in accordance with specified procedures, considerations, and objectives. The act requires that electrical corporations' proposed procurement plans include certain elements, including a showing that the electrical corporations will first meet their unmet needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible.

This bill would require electrical corporations' proposed procurement plans to also include a showing that the electrical corporations (1), in soliciting bids for gas-fired generation ~~resources~~, *resources from new or repowered facilities*, actively seek bids *for resources* that are not *gas-fired generation resources* located in or adjacent to ~~disadvantaged~~ communities *that suffer from cumulative pollution burdens and other environmental impacts* and (2), in considering bids for, or negotiating

bilateral contracts for, *new or repowered* gas-fired generation resources, give priority to generation resources that are not *gas-fired generation resources* located in or adjacent to ~~disadvantaged~~ *those* communities. *The bill would require the commission, before approving a contract for any new or repowered gas-fired generation resource, to require the electrical corporation to demonstrate that it has undertaken all feasible efforts to meet any identified resource need through alternative means.* Because this requirement would be a part of the Public Utilities Act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

Existing law requires electrical corporations, in soliciting and procuring of eligible renewable energy resources for California-based projects, to give preference to renewable energy projects that provide environmental and economic benefits to communities afflicted with poverty or high unemployment or those suffering from high emission levels of toxic air contaminants, criteria air pollutants, and greenhouse gases.

This bill would specify that the above requirements apply to all procurement of eligible renewable energy resources for California-based projects whether the procurement occurs through all-source requests for offers, eligible renewable energy resources only requests for offers, or other procurement mechanisms.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 399.13 of the Public Utilities Code is
- 2 amended to read:
- 3 399.13. (a) (1) The commission shall direct each electrical
- 4 corporation to annually prepare a renewable energy procurement
- 5 plan that includes the matter in paragraph (5), to satisfy its
- 6 obligations under the renewables portfolio standard. To the extent
- 7 feasible, this procurement plan shall be proposed, reviewed, and

1 adopted by the commission as part of, and pursuant to, a general
2 procurement plan process. The commission shall require each
3 electrical corporation to review and update its renewable energy
4 procurement plan as it determines to be necessary. The commission
5 shall require all other retail sellers to prepare and submit renewable
6 energy procurement plans that address the requirements identified
7 in paragraph (5).

8 (2) Every electrical corporation that owns electrical transmission
9 facilities shall annually prepare, as part of the Federal Energy
10 Regulatory Commission Order 890 process, and submit to the
11 commission, a report identifying any electrical transmission
12 facility, upgrade, or enhancement that is reasonably necessary to
13 achieve the renewables portfolio standard procurement
14 requirements of this article. Each report shall look forward at least
15 five years and, to ensure that adequate investments are made in a
16 timely manner, shall include a preliminary schedule when an
17 application for a certificate of public convenience and necessity
18 will be made, pursuant to Chapter 5 (commencing with Section
19 1001), for any electrical transmission facility identified as being
20 reasonably necessary to achieve the renewable energy resources
21 procurement requirements of this article. Each electrical
22 corporation that owns electrical transmission facilities shall ensure
23 that project-specific interconnection studies are completed in a
24 timely manner.

25 (3) The commission shall direct each retail seller to prepare and
26 submit an annual compliance report that includes all of the
27 following:

28 (A) The current status and progress made during the prior year
29 toward procurement of eligible renewable energy resources as a
30 percentage of retail sales, including, if applicable, the status of any
31 necessary siting and permitting approvals from federal, state, and
32 local agencies for those eligible renewable energy resources
33 procured by the retail seller, and the current status of compliance
34 with the portfolio content requirements of subdivision (c) of
35 Section 399.16, including procurement of eligible renewable energy
36 resources located outside the state and within the WECC and
37 unbundled renewable energy credits.

38 (B) If the retail seller is an electrical corporation, the current
39 status and progress made during the prior year toward construction
40 of, and upgrades to, transmission and distribution facilities and

1 other electrical system components it owns to interconnect eligible
2 renewable energy resources and to supply the electricity generated
3 by those resources to load, including the status of planning, siting,
4 and permitting transmission facilities by federal, state, and local
5 agencies.

6 (C) Recommendations to remove impediments to making
7 progress toward achieving the renewable energy resources
8 procurement requirements established pursuant to this article.

9 (4) The commission shall adopt, by rulemaking, all of the
10 following:

11 (A) A process that provides criteria for the rank ordering and
12 selection of least-cost and best-fit eligible renewable energy
13 resources to comply with the California Renewables Portfolio
14 Standard Program obligations on a total cost and best-fit basis.
15 This process shall take into account all of the following:

16 (i) Estimates of indirect costs associated with needed
17 transmission investments.

18 (ii) The cost impact of procuring the eligible renewable energy
19 resources on the electrical corporation's electricity portfolio.

20 (iii) The viability of the project to construct and reliably operate
21 the eligible renewable energy resource, including the developer's
22 experience, the feasibility of the technology used to generate
23 electricity, and the risk that the facility will not be built, or that
24 construction will be delayed, with the result that electricity will
25 not be supplied as required by the contract.

26 (iv) Workforce recruitment, training, and retention efforts,
27 including the employment growth associated with the construction
28 and operation of eligible renewable energy resources and goals
29 for recruitment and training of women, minorities, and disabled
30 veterans.

31 (v) (I) Estimates of electrical corporation expenses resulting
32 from integrating and operating eligible renewable energy resources,
33 including, but not limited to, any additional wholesale energy and
34 capacity costs associated with integrating each eligible renewable
35 resource.

36 (II) No later than December 31, 2015, the commission shall
37 approve a methodology for determining the integration costs
38 described in subclause (I).

39 (vi) Consideration of any statewide greenhouse gas emissions
40 limit established pursuant to the California Global Warming

1 Solutions Act of 2006 (Division 25.5 (commencing with Section
2 38500) of the Health and Safety Code).

3 (vii) Consideration of capacity and system reliability of the
4 eligible renewable energy resource to ensure grid reliability.

5 (B) Rules permitting retail sellers to accumulate, beginning
6 January 1, 2011, excess procurement in one compliance period to
7 be applied to any subsequent compliance period. The rules shall
8 apply equally to all retail sellers. In determining the quantity of
9 excess procurement for the applicable compliance period, the
10 commission shall retain the rules adopted by the commission and
11 in effect as of January 1, 2015, for the compliance period specified
12 in subparagraphs (A) to (C), inclusive, of paragraph (1) of
13 subdivision (b) of Section 399.15. For any subsequent compliance
14 period, the rules shall allow the following:

15 (i) For electricity products meeting the portfolio content
16 requirements of paragraph (1) of subdivision (b) of Section 399.16,
17 contracts of any duration may count as excess procurement.

18 (ii) Electricity products meeting the portfolio content
19 requirements of paragraph (2) or (3) of subdivision (b) of Section
20 399.16 shall not be counted as excess procurement. Contracts of
21 any duration for electricity products meeting the portfolio content
22 requirements of paragraph (2) or (3) of subdivision (b) of Section
23 399.16 that are credited towards a compliance period shall not be
24 deducted from a retail seller's procurement for purposes of
25 calculating excess procurement.

26 (iii) If a retail seller notifies the commission that it will comply
27 with the provisions of subdivision (b) for the compliance period
28 beginning January 1, 2017, the provisions of clauses (i) and (ii)
29 shall take effect for that retail seller for that compliance period.

30 (C) Standard terms and conditions to be used by all electrical
31 corporations in contracting for eligible renewable energy resources,
32 including performance requirements for renewable generators. A
33 contract for the purchase of electricity generated by an eligible
34 renewable energy resource, at a minimum, shall include the
35 renewable energy credits associated with all electricity generation
36 specified under the contract. The standard terms and conditions
37 shall include the requirement that, no later than six months after
38 the commission's approval of an electricity purchase agreement
39 entered into pursuant to this article, the following information

1 about the agreement shall be disclosed by the commission: party
2 names, resource type, project location, and project capacity.

3 (D) An appropriate minimum margin of procurement above the
4 minimum procurement level necessary to comply with the
5 renewables portfolio standard to mitigate the risk that renewable
6 projects planned or under contract are delayed or canceled. This
7 paragraph does not preclude an electrical corporation from
8 voluntarily proposing a margin of procurement above the
9 appropriate minimum margin established by the commission.

10 (5) Consistent with the goal of increasing California's reliance
11 on eligible renewable energy resources, the renewable energy
12 procurement plan shall include all of the following:

13 (A) An assessment of annual or multiyear portfolio supplies
14 and demand to determine the optimal mix of eligible renewable
15 energy resources with deliverability characteristics that may include
16 peaking, dispatchable, baseload, firm, and as-available capacity.

17 (B) Potential compliance delays related to the conditions
18 described in paragraph (5) of subdivision (b) of Section 399.15.

19 (C) A bid solicitation setting forth the need for eligible
20 renewable energy resources of each deliverability characteristic,
21 required online dates, and locational preferences, if any.

22 (D) A status update on the development schedule of all eligible
23 renewable energy resources currently under contract.

24 (E) Consideration of mechanisms for price adjustments
25 associated with the costs of key components for eligible renewable
26 energy resource projects with online dates more than 24 months
27 after the date of contract execution.

28 (F) An assessment of the risk that an eligible renewable energy
29 resource will not be built, or that construction will be delayed,
30 with the result that electricity will not be delivered as required by
31 the contract.

32 (6) In soliciting and procuring eligible renewable energy
33 resources, each electrical corporation shall offer contracts of no
34 less than 10 years duration, unless the commission approves of a
35 contract of shorter duration.

36 (7) (A) In soliciting and procuring eligible renewable energy
37 resources for California-based projects, each electrical corporation
38 shall give preference to renewable energy projects that provide
39 environmental and economic benefits to communities afflicted
40 with poverty or high unemployment, or that suffer from high

1 emission levels of toxic air contaminants, criteria air pollutants,
2 and greenhouse gases.

3 (B) Subparagraph (A) applies to all procurement of eligible
4 renewable energy resources for California-based projects, whether
5 the procurement occur through all-source requests for offers,
6 eligible renewable resources only requests for offers, or other
7 procurement mechanisms. This subparagraph is declaratory of
8 existing law.

9 (8) In soliciting and procuring eligible renewable energy
10 resources, each retail seller shall consider the best-fit attributes of
11 resource types that ensure a balanced resource mix to maintain the
12 reliability of the electrical grid.

13 (b) A retail seller may enter into a combination of long- and
14 short-term contracts for electricity and associated renewable energy
15 credits. Beginning January 1, 2021, at least 65 percent of the
16 procurement a retail seller counts toward the renewables portfolio
17 standard requirement of each compliance period shall be from its
18 contracts of 10 years or more in duration or in its ownership or
19 ownership agreements for eligible renewable energy resources.

20 (c) The commission shall review and accept, modify, or reject
21 each electrical corporation's renewable energy resource
22 procurement plan prior to the commencement of renewable energy
23 procurement pursuant to this article by an electrical corporation.
24 The commission shall assess adherence to the approved renewable
25 energy resource procurement plans in determining compliance
26 with the obligations of this article.

27 (d) Unless previously preapproved by the commission, an
28 electrical corporation shall submit a contract for the generation of
29 an eligible renewable energy resource to the commission for review
30 and approval consistent with an approved renewable energy
31 resource procurement plan. If the commission determines that the
32 bid prices are elevated due to a lack of effective competition among
33 the bidders, the commission shall direct the electrical corporation
34 to renegotiate the contracts or conduct a new solicitation.

35 (e) If an electrical corporation fails to comply with a commission
36 order adopting a renewable energy resource procurement plan, the
37 commission shall exercise its authority to require compliance.

38 (f) (1) The commission may authorize a procurement entity to
39 enter into contracts on behalf of customers of a retail seller for
40 electricity products from eligible renewable energy resources to

1 satisfy the retail seller’s renewables portfolio standard procurement
2 requirements. The commission shall not require any person or
3 corporation to act as a procurement entity or require any party to
4 purchase eligible renewable energy resources from a procurement
5 entity.

6 (2) Subject to review and approval by the commission, the
7 procurement entity shall be permitted to recover reasonable
8 administrative and procurement costs through the retail rates of
9 end-use customers that are served by the procurement entity and
10 are directly benefiting from the procurement of eligible renewable
11 energy resources.

12 (g) Procurement and administrative costs associated with
13 contracts entered into by an electrical corporation for eligible
14 renewable energy resources pursuant to this article and approved
15 by the commission are reasonable and prudent and shall be
16 recoverable in rates.

17 (h) Construction, alteration, demolition, installation, and repair
18 work on an eligible renewable energy resource that receives
19 production incentives pursuant to Section 25742 of the Public
20 Resources Code, including work performed to qualify, receive, or
21 maintain production incentives, are “public works” for the purposes
22 of Chapter 1 (commencing with Section 1720) of Part 7 of Division
23 2 of the Labor Code.

24 SEC. 2. Section 454.5 of the Public Utilities Code is amended
25 to read:

26 454.5. (a) The commission shall specify the allocation of
27 electricity, including quantity, characteristics, and duration of
28 electricity delivery, that the Department of Water Resources shall
29 provide under its power purchase agreements to the customers of
30 each electrical corporation, which shall be reflected in the electrical
31 corporation’s proposed procurement plan. Each electrical
32 corporation shall file a proposed procurement plan with the
33 commission not later than 60 days after the commission specifies
34 the allocation of electricity. The proposed procurement plan shall
35 specify the date that the electrical corporation intends to resume
36 procurement of electricity for its retail customers, consistent with
37 its obligation to serve. After the commission’s adoption of a
38 procurement plan, the commission shall allow not less than 60
39 days before the electrical corporation resumes procurement
40 pursuant to this section.

1 (b) An electrical corporation's proposed procurement plan shall
2 include, but not be limited to, all of the following:

3 (1) An assessment of the price risk associated with the electrical
4 corporation's portfolio, including any utility-retained generation,
5 existing power purchase and exchange contracts, and proposed
6 contracts or purchases under which an electrical corporation will
7 procure electricity, electricity demand reductions, and
8 electricity-related products and the remaining open position to be
9 served by spot market transactions.

10 (2) A definition of each electricity product, electricity-related
11 product, and procurement related financial product, including
12 support and justification for the product type and amount to be
13 procured under the plan.

14 (3) The duration of the plan.

15 (4) The duration, timing, and range of quantities of each product
16 to be procured.

17 (5) A competitive procurement process under which the
18 electrical corporation may request bids for procurement-related
19 services, including the format and criteria of that procurement
20 process.

21 (6) An incentive mechanism, if any incentive mechanism is
22 proposed, including the type of transactions to be covered by that
23 mechanism, their respective procurement benchmarks, and other
24 parameters needed to determine the sharing of risks and benefits.

25 (7) The upfront standards and criteria by which the acceptability
26 and eligibility for rate recovery of a proposed procurement
27 transaction will be known by the electrical corporation prior to
28 execution of the transaction. This shall include an expedited
29 approval process for the commission's review of proposed contracts
30 and subsequent approval or rejection thereof. The electrical
31 corporation shall propose alternative procurement choices in the
32 event a contract is rejected.

33 (8) Procedures for updating the procurement plan.

34 (9) A showing that the procurement plan will achieve the
35 following:

36 (A) The electrical corporation, in order to fulfill its unmet
37 resource needs, shall procure resources from eligible renewable
38 energy resources in an amount sufficient to meet its procurement
39 requirements pursuant to the California Renewables Portfolio

1 Standard Program (Article 16 (commencing with Section 399.11)
2 of Chapter 2.3).

3 (B) The electrical corporation shall create or maintain a
4 diversified procurement portfolio consisting of both short-term
5 and long-term electricity and electricity-related and demand
6 reduction products.

7 (C) The electrical corporation shall first meet its unmet resource
8 needs through all available energy efficiency and demand reduction
9 resources that are cost effective, reliable, and feasible.

10 (D) (i) The electrical corporation, in soliciting bids for gas-fired
11 generation ~~resources~~, *resources from new or repowered facilities*,
12 shall actively seek bids for ~~generation~~ resources that are not
13 *gas-fired generation resources* located in or adjacent to
14 ~~disadvantaged communities identified pursuant to Section 39711~~
15 ~~of the Health and Safety Code. In communities that suffer from~~
16 *cumulative pollution burdens and other environmental impacts,*
17 *including, but not limited to, high emission levels of toxic air*
18 *contaminants, criteria air pollutants, and greenhouse gases.*

19 (ii) *In considering bids for, or negotiating contracts for, new or*
20 *repowered gas-fired generation resources, the electrical corporation*
21 *shall provide greater priority to gas-fired generation resources that*
22 *are not gas-fired generation resources located in or adjacent to*
23 ~~disadvantaged communities identified pursuant to Section 39711~~
24 ~~of the Health and Safety Code. communities that suffer from~~
25 *cumulative pollution burdens and other environmental impacts,*
26 *including, but not limited to, high emission levels of toxic air*
27 *contaminants, criteria air pollutants, and greenhouse gases.*

28 (E) (i) *The electrical corporation shall undertake all feasible*
29 *efforts to meet any identified resource need through available*
30 *renewable energy, energy storage, energy efficiency, and demand*
31 *reduction resources that are cost effective, reliable, and feasible.*

32 (ii) *Prior to approving a contract for any new or repowered*
33 *gas-fired generation resource, the commission shall require the*
34 *electrical corporation to demonstrate its satisfaction of clause (i).*

35 (10) The electrical corporation's risk management policy,
36 strategy, and practices, including specific measures of price
37 stability.

38 (11) A plan to achieve appropriate increases in diversity of
39 ownership and diversity of fuel supply of nonutility electrical
40 generation.

1 (12) A mechanism for recovery of reasonable administrative
2 costs related to procurement in the generation component of rates.

3 (c) The commission shall review and accept, modify, or reject
4 each electrical corporation's procurement plan and any amendments
5 or updates to the ~~plan to plan~~. *The commission shall ensure that*
6 *the plan contains the elements required pursuant to this section,*
7 *including the ~~element~~ elements described in ~~subparagraph (D)~~*
8 *subparagraphs (D) and (E) of paragraph (9) of subdivision (b).*
9 The commission's review shall consider each electrical
10 corporation's individual procurement situation, and shall give
11 strong consideration to that situation in determining which one or
12 more of the features set forth in this subdivision shall apply to that
13 electrical corporation. A procurement plan approved by the
14 commission shall contain one or more of the following features,
15 provided that the commission may not approve a feature or
16 mechanism for an electrical corporation if it finds that the feature
17 or mechanism would impair the restoration of an electrical
18 corporation's creditworthiness or would lead to a deterioration of
19 an electrical corporation's creditworthiness:

20 (1) A competitive procurement process under which the
21 electrical corporation may request bids for procurement-related
22 services. The commission shall specify the format of that
23 procurement process, as well as criteria to ensure that the auction
24 process is open and adequately subscribed. Any purchases made
25 in compliance with the commission-authorized process shall be
26 recovered in the generation component of rates.

27 (2) An incentive mechanism that establishes a procurement
28 benchmark or benchmarks and authorizes the electrical corporation
29 to procure from the market, subject to comparing the electrical
30 corporation's performance to the commission-authorized
31 benchmark or benchmarks. The incentive mechanism shall be
32 clear, achievable, and contain quantifiable objectives and standards.
33 The incentive mechanism shall contain balanced risk and reward
34 incentives that limit the risk and reward of an electrical corporation.

35 (3) Upfront achievable standards and criteria by which the
36 acceptability and eligibility for rate recovery of a proposed
37 procurement transaction will be known by the electrical corporation
38 prior to the execution of the bilateral contract for the transaction.
39 The commission shall provide for expedited review and either
40 approve or reject the individual contracts submitted by the electrical

1 corporation to ensure compliance with its procurement plan. To
2 the extent the commission rejects a proposed contract pursuant to
3 this criteria, the commission shall designate alternative procurement
4 choices obtained in the procurement plan that will be recoverable
5 for ratemaking purposes.

6 (d) A procurement plan approved by the commission shall
7 accomplish each of the following objectives:

8 (1) Enable the electrical corporation to fulfill its obligation to
9 serve its customers at just and reasonable rates.

10 (2) Eliminate the need for after-the-fact reasonableness reviews
11 of an electrical corporation's actions in compliance with an
12 approved procurement plan, including resulting electricity
13 procurement contracts, practices, and related expenses. However,
14 the commission may establish a regulatory process to verify and
15 ensure that each contract was administered in accordance with the
16 terms of the contract, and contract disputes that may arise are
17 reasonably resolved.

18 (3) Ensure timely recovery of prospective procurement costs
19 incurred pursuant to an approved procurement plan. The
20 commission shall establish rates based on forecasts of procurement
21 costs adopted by the commission, actual procurement costs
22 incurred, or combination thereof, as determined by the commission.
23 The commission shall establish power procurement balancing
24 accounts to track the differences between recorded revenues and
25 costs incurred pursuant to an approved procurement plan. The
26 commission shall review the power procurement balancing
27 accounts, not less than semiannually, and shall adjust rates or order
28 refunds, as necessary, to promptly amortize a balancing account,
29 according to a schedule determined by the commission. Until
30 January 1, 2006, the commission shall ensure that any
31 overcollection or undercollection in the power procurement
32 balancing account does not exceed 5 percent of the electrical
33 corporation's actual recorded generation revenues for the prior
34 calendar year excluding revenues collected for the Department of
35 Water Resources. The commission shall determine the schedule
36 for amortizing the overcollection or undercollection in the
37 balancing account to ensure that the 5 percent threshold is not
38 exceeded. After January 1, 2006, this adjustment shall occur when
39 deemed appropriate by the commission consistent with the
40 objectives of this section.

1 (4) Moderate the price risk associated with serving its retail
2 customers, including the price risk embedded in its long-term
3 supply contracts, by authorizing an electrical corporation to enter
4 into financial and other electricity-related product contracts.

5 (5) Provide for just and reasonable rates, with an appropriate
6 balancing of price stability and price level in the electrical
7 corporation's procurement plan.

8 (e) The commission shall provide for the periodic review and
9 prospective modification of an electrical corporation's procurement
10 plan.

11 (f) The commission may engage an independent consultant or
12 advisory service to evaluate risk management and strategy. The
13 reasonable costs of any consultant or advisory service is a
14 reimbursable expense and eligible for funding pursuant to Section
15 631.

16 (g) The commission shall adopt appropriate procedures to ensure
17 the confidentiality of any market sensitive information submitted
18 in an electrical corporation's proposed procurement plan or
19 resulting from or related to its approved procurement plan,
20 including, but not limited to, proposed or executed power purchase
21 agreements, data request responses, or consultant reports, or any
22 combination, provided that the Office of Ratepayer Advocates and
23 other consumer groups that are nonmarket participants shall be
24 provided access to this information under confidentiality
25 procedures authorized by the commission.

26 (h) Nothing in this section alters, modifies, or amends the
27 commission's oversight of affiliate transactions under its rules and
28 decisions or the commission's existing authority to investigate and
29 penalize an electrical corporation's alleged fraudulent activities,
30 or to disallow costs incurred as a result of gross incompetence,
31 fraud, abuse, or similar grounds. Nothing in this section expands,
32 modifies, or limits the State Energy Resources Conservation and
33 Development Commission's existing authority and responsibilities
34 as set forth in Sections 25216, 25216.5, and 25323 of the Public
35 Resources Code.

36 (i) An electrical corporation that serves less than 500,000 electric
37 retail customers within the state may file with the commission a
38 request for exemption from this section, which the commission
39 shall grant upon a showing of good cause.

(j) (1) Prior to its approval pursuant to Section 851 of any divestiture of generation assets owned by an electrical corporation on or after the date of enactment of the act adding this section, the commission shall determine the impact of the proposed divestiture on the electrical corporation's procurement rates and shall approve a divestiture only to the extent it finds, taking into account the effect of the divestiture on procurement rates, that the divestiture is in the public interest and will result in net ratepayer benefits.

(2) Any electrical corporation's procurement necessitated as a result of the divestiture of generation assets on or after the effective date of the act adding this subdivision shall be subject to the mechanisms and procedures set forth in this section only if its actual cost is less than the recent historical cost of the divested generation assets.

(3) Notwithstanding paragraph (2), the commission may deem proposed procurement eligible to use the procedures in this section upon its approval of asset divestiture pursuant to Section 851.

(k) The commission shall direct electrical corporations to include in their proposed procurement plans the integration costs described and determined pursuant to clause (v) of subparagraph (A) of paragraph (4) of subdivision (a) of Section 399.13.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.